

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 6065 to 6067 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI
and
Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

SPECIAL LAND ACQUISITION OFFICER

Versus

MATHURBHAI DAMABHAI

Appearance:

Mr V M Pancholi, AGP for Appellant No.1
Ms. Sejal Mandavia for Appellant No. 2
Mr Supheia for Mr Vijay N Raval for respondents

CORAM : MR.JUSTICE M.H.KADRI
and
MR.JUSTICE D.P.BUCH

Date of decision: 13/06/2000

ORAL (COMMON) JUDGMENT (per. Kadri, J.)

By means of filing these appeals, the appellants have challenged the common judgment and award dated March 10, 1999 rendered by the learned 6th Joint Civil Judge (SD), Panchmahals at Godhra in Land Acquisition Reference No.157 to 159 of 1996. As common questions of facts and law are involved in this group of First Appeals, we propose to dispose them of by this common judgment.

2. By the impugned common judgment and award, the Reference Court determined the market value of the acquired lands of the respondents situated at village Duma at the rate of Rs.5.10 paise per sq. meter as on July 3, 1982.

3. The agricultural lands of respondents situated at village Duma, Taluka Jambughoda, District Panchmahals were placed under acquisition for the public purpose i.e. for Narmada Project by the issuance of notification under section 4(1) of the Land Acquisition, 1894 (for short 'the Act') dated July 3, 1982. After following usual procedure under section 5(A), declaration under section 6 of the Act was made on July 15, 1982. The Land Acquisition Officer, after issuing notices under section 9 of the Act, made the award on September 10, 1986 and offered compensation of the acquired lands to the respondents at the rate of Rs.0.95 paise per sq. metre. The respondents, feeling aggrieved by the award of by the the Land Acquisition Officer filed applications under Section 18 of the Act requiring the Land Acquisition Officer to refer the applications to the District Court for the purpose of determination of the market value of the acquired lands. Accordingly the said applications were referred to by the Land Acquisition Officer to the District Court, Panchmahals at Godhra, which came to be numbered as Land Reference Nos. 157 to 159 of 1996. The above reference applications were transferred to the Court of learned 6th Joint Civil Judge (SD) at Godhra.

4. The claimants, in support of their claim for enhancement of compensation, examined one Manekbhai Batukbhai, at Exh. 11, who was the claimant of L.A.R. No.157/96. The witness produced copies of village form No.7/12 at Exh.13. Certified copy of the previous award rendered by the District Court, Panchmahals, at Godhra in LAR No.240/89 was produced at Exh.12 in respect of land of village Uchet, Taluka Jambughoda.

5. The Reference Court, on appreciation of oral as well as documentary evidence, determined the market value

of the acquired land at Rs. 5.10 paise per sq. metre, which has given rise to filing of these appeals. Learned AGP, Mr V M Pancholi has strenuously urged that in the previous award of the same village in respect of the acquisition which had taken place in the year 1988, the market value of the acquired lands of the same village was determined at Rs.7.95 paise per sq. metre. Learned Asstt. Government Pleader submitted that if by the previous award in respect of the similarly situated acquired land of the same village in the year 1988 the market value was determined at Rs.7.95 per sq. metre, then the market value for the acquisition of the present acquired lands of the same village in the year 1982 may be fixed at Rs.3.20 paise per sq. metre. It may be stated that this Court in First Appeal No.2853/99 upheld determination of the market value of the acquired lands of the same village Duma at Rs.7.95 paise as on December, 1988. Evidence of the claimants did establish that lands of previous awards and the present acquired lands were similar in nature and having the some advantageous features. Therefore, in our view, the judgment rendered in FA No.2853/99 would be relevant for the determination of the market value of the present acquired lands. The judgment rendered in FA 2853/99 was in respect of the lands acquired in the year 1988 wherein the market value was determined at Rs.7.95 paise per sq. metre which rounded off to Rs.8/- per sq. metre for the purpose of making suitable deduction. The present lands were acquired in the year 1982 and, therefore, if deduction at the rate 10% per year is applied, then the market value of the present acquired lands as on 3.7.1982 would be Rs.3.20 paise per sq. metre. In our opinion, determination of the market value at Rs.3.20 paise would be just. adequate and reasonable in view of the situation of the acquired lands.

6. For the foregoing reasons, the appeals deserve to be partly allowed. The award of the Reference Court is modified to the extent that the claimants would be entitled to receive compensation at Rs.3.20 paise per sq. metre for the acquired lands situated in village Duma. The award in respect of grant of statutory benefits under Section 23(1-A) and 23(2) and interest under the amended provisions of Section 28 of the Act is manifestly just and proper and it does not call for any interference and, therefore, the same is hereby confirmed.

7. The appeals are partly allowed and the market price of the present acquired land situated at Duma as on July 3, 1982 is determined at the rate of Rs.3.20 paise per sq. metre. The claimants shall be entitled to

statutory benefits under the provisions of Sections 23(1-A) and 23(2) and 28 of the Act. Office is directed to draw decree in terms of this judgment. There shall be no order as to costs. The appellants are directed to deposit the amount awarded as per this judgment in the Reference Court within four months from today.

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msp.